

### REMARKS

Claims 1-24 are pending and have been rejected. Claims 1, 5-7 9, 12, 13, 15, and 17 have been amended and claims 27-28 have been added. Claims 4, 8, 14, 18, 21 and 22 have been canceled without prejudice or disclaimer. Support for the amendments can be found, for example, in the Figures and in the specification page 7, lines 3-28 and the new description added in this response. Therefore, claims 1-3, 5-7, 9-13, 15-17, 19, 20 and 23-28 are presented for further prosecution. Favorable reconsideration of the application is requested in light of the foregoing amendments and the remarks that follow. Affirmation of the election of group I, claims 1-24 is hereby made.

### Specification

The specification has been amended to state the relationship between the angle  $\theta$  between the top portion and the clearance increasing portion, and the angle  $\phi$  between the clearance increasing portion and the inner vertical wall. Such a relationship is clearly shown in original Figures 3, 6, 7 and 8, among others. Accordingly, it is believed that no new matter has been added.

### Drawings

Figure 7 has been amended to label angle  $\phi$  between the clearance increasing portion and the inner vertical wall. This angle was clearly present in the application as filed. It has simply been labeled. Accordingly, it is believed that no new matter has been added. Figure 7 has also been amended to label the bottom

edge 20c of the top portion 20 and the bottom edge 22a of the clearance increasing portion 22.

§102(b) Rejection of claims 1-3, 19, 20, 23 and 24

Claims 1-3, 19, 20, 23 and 24 stand rejected under 35 U.S.C. §102(b) as being anticipated by McCullum. McCullum does not show every limitation of present claims 1-3, 19, 20, 23 and 24.

The Examiner alleges that McCullum shows a fender having a light housing mounted to the fender offset from a midline of the fender (figure 4), the external surface of the fender (figure 1) has a shape wherein the light housing comprises a base portion that conforms to at least a portion of the shape of the fender and (figure 6) shows the light housing having a raised portion adapted to receive a light fixture. The Examiner further alleges that McCullum et al 'D'786 shows a fender on one wheel of a trailer or dolly which inherently comprises a plurality of fenders.

Applicant disagrees with the Examiner and hereby traverses this rejection. Claim 1 recites

said fender further comprising a top portion having opposed inner and outer edges, a clearance increasing portion depending downwardly from said inner edge of said top portion at a first non-zero acute angle, and an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein said angle

formed by said top portion and said clearance increasing portion, and the angle formed by said clearance increasing portion and said inner wall add up to approximately 90°.

This claim language clearly distinguishes over the fender of McCullum.

Claims 2-3, 19, 20, 23 and 24 depend from base claim 1 and are therefore patentable for all the reasons given above with respect to claim 1 and are also patentable because they include additional limitations which further distinguish over McCullum.

Accordingly, it is believed that the wording of claims 1-3, 19, 20, 23 and 24 distinguish over McCullum and overcome this Section 102(b) rejection, and reconsideration and allowance of claims 1-3, 19, 20, 23 and 24 are respectfully solicited.

§102(b) Rejection of claims 1-9 and 17-24

Claims 1-9 and 17-24 stand rejected under 35 U.S.C. §102(b) as being anticipated by Nyman. Nyman does not show every limitation of present claims 1-9 and 17-24.

The Examiner alleges that Nyman shows a plurality of fenders 10, 11 on a trailer or tow dolly having a light housing 13 mounted to the fender 11 offset from a midline of the fender (figure 2 and 4), the external surface of the fender (figure 1) has a shape wherein the light housing comprises a base portion that conforms to at least a portion of the shape of the fender (figures 1 and 2), the light housing having a raised portion adapted to receive a light fixture.

Regarding claims 4, 17, 21 and 22, the Examiner alleges that Nyman '556 (figure 4) shows a fender 11 on a trailer or tow dolly comprising a clearance-increasing portion which is concave (note the left portion of the fender extending from the inner portion of the wheel is viewed as a clearance increasing portion).

Regarding claim 5-7, the Examiner alleges that Nyman '556 shows a fender with a clearance increasing portion that extends downward at a non-zero acute angle of about an angle of between 1 and 89 degrees (figure 1, note the fender has an angle in a longitudinal and transverse direction), with the light housing attached to the top portion of the fender, note applicants disclosure page 7, line 25-26, the top portion extends all the way down to the bottom edge of the fender.

Regarding claims 8, 9 and 18, the Examiner alleges that figures 1 and 3 show an inner wall (inner lip of the fender figure 3) which extends from the clearance increasing portion and has an inner edge and further comprises an outer wall (outer side of the fender 12, figure 1) having an outer edge.

Applicant disagrees with the Examiner and hereby traverses this rejection. Claim 1 recites

a clearance increasing portion depending downwardly from said inner edge of said top portion at a first non-zero acute angle, and an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle . . . and wherein said angle formed by said top portion and said clearance increasing portion, and the angle formed by said clearance increasing portion and said inner wall add up to approximately 90°.

The Examiner alleges that the curved portion of fender 11 (not labeled, but near 73) is a clearance increasing portion. However, as clearly defined in claim 1, angles are formed between the top portion and the clearance increasing portion, and between the clearance increasing portion and the inner wall. The curved portion of the Nyman fender is just that, a curved portion, not an angle (let alone two angles). "Angle" is defined as "the figure formed by two lines extending from the same point,"<sup>1</sup> and a "curve" is defined as "to have or take a turn, change, or deviation from a straight line or plane surface without sharp breaks or angularity transitive senses."<sup>2</sup> The definition for a curve states that a curve does not have sharp breaks or angularity transitive senses. Accordingly, a curve is essentially the opposite of an angle. In the least, a curve and an angle are clearly different. Nyman clearly does not have two angles between the top portion, alleged clearance increasing portion and inner wall that add up to 90°. Accordingly, it is believed that present claim 1 distinguishes over Nyman. Withdrawal of the rejection is respectfully requested.

Claims 2-3, 5-7, 9-13, 15-17, 19, 20 and 23-24 depend from base claim 1 and are therefore patentable for all the reasons given above with respect to claim 1 and are also patentable because they include additional limitations which further distinguish over Nyman.

Claims 6 and 7 recite "wherein said first and second angles are between about 1° and about 89°" and "40° and about 50°", respectively. As

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<sup>1</sup>/ Merriam Webster's Collegiate Dictionary 2001.

<sup>2</sup>/ Id.

discussed above Nyman does not show any angle formed between the top portion, alleged clearance increasing portion and inner wall, let alone angles that are between 1° and about 89° and 40° and about 50°. For this additional reason present claims 6, 7, 12 and 13 distinguish over Nyman.

Accordingly, it is believed that the wording of claims 1, 3, 4, 9, 11, 14, 15, 17 and 20 distinguish over Waner and overcome this Section 102(b) rejection, and reconsideration and allowance of claims 1, 3, 4, 9, 11, 14, 15, 17 and 20 are respectfully solicited.

§103(a) Rejection of claim 15

Claim 15 stands rejected under 35 U.S.C. §103(a) as being obvious in view of Gibes. The Examiner alleges that Nyman '556 shows a fender with a top portion which is flat in a transverse direction with respect to the longitudinal midline (figure 2 and 3) and wherein the top portion is curved in a longitudinal direction and an inner wall extends from the clearance increasing portion which has an angle of about 1 to 89 degrees and the outer wall extends from the top portion but failed to show the fender comprising a substantially flat middle section and two curved sections or a fender with a plurality of planer sections. The Examiner further alleges that Povermo '664 shows various shaped fenders with a plurality of planer sections (figure 5) and an alternative fender comprising a flat middle section and two curved sections (figure 2).

The Examiner alleges that it would have been obvious to have modified the fender of Nyman with a fender having a plurality of planer or a substantially flat

section for mounting a more traditional common known trailer light housing without the need for a specially shaped housing to configure to the shape of the fender for simplicity and reduced manufacturing costs and more readily available to replace a damaged light fixture.

Claims 10-16 depend from claim 1 and are therefore patentable for the reasons stated above. However, claims 10-16 further distinguish over the cited references because no motivation is provided for combining Nyman with Povermo. Accordingly, withdrawal of the rejection is respectfully requested.

#### New Claims

New claims 27 and 28 have been added. It is respectfully submitted that claims 27 and 28 distinguish over the cited references.

New claim 27 states

wherein said clearance increasing portion, said inner wall and said outer wall each have a bottom edge, and wherein said bottom edge of said clearance increasing portion, said bottom edge of said inner wall and said bottom edge of said outer wall all lie in a common plane.

New claim 28 includes a similar limitation. This limitation is best shown in Figure 7 as amended and is supported in the specification at page 7, lines 25-27, which state "Preferably, the bottom edge 26a of the inner vertical wall 26, the bottom edge 20c of the top portion 20, and the bottom edge 22a of the clearance increasing portion 22 lie in a common plane." Such a limitation clearly distinguishes over Nyman and the other cited references.

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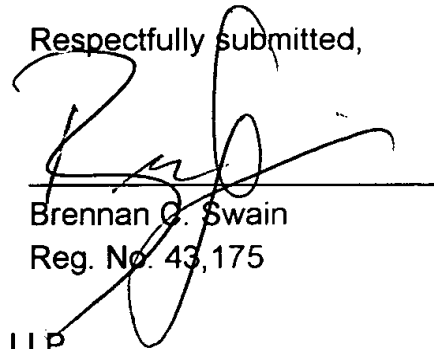
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In view of the amendments to the claims and the foregoing remarks, it is believed that all claims are in condition for allowance. Reconsideration of all rejections and a notice of allowance are respectfully requested. Should there be any questions regarding this application, Examiner Yeagley is invited to contact the undersigned attorney at the phone number listed below.

May 14, 2001

Date

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brennan G. Swain", is written over a horizontal line. The signature is stylized with large, sweeping loops.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

Claims 4, 8, 14, 18, 21 and 22 have been canceled.

The following claims have been amended:

1. (Amended) A fender having a longitudinal midline, and a light housing mounted to said fender offset from said midline, said fender further comprising

- a) a top portion having opposed inner and outer edges,
- b) a clearance increasing portion depending downwardly from said inner edge of said top portion at a non-zero acute angle, and
- c) an inner wall depending downwardly from said clearance increasing portion at a non-zero acute angle, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein said angle formed by said top portion and said clearance increasing portion, and the angle formed by said clearance increasing portion and said inner wall add up to approximately 90°.

5. (Amended) The fender of claim 1 [4 further comprising a top portion,] wherein said light housing is attached to said top portion [, and wherein said clearance increasing portion extends downward from said top portion at a non-zero acute angle].

6. (Amended) The fender of claim 5 wherein said first and second angles are [is] between about 1° and about 89°.

7. (Amended) The fender of claim 5 wherein said first and second angles are [is] between about 40° and about 50°.

9. (Amended) The fender of claim [8] 1 further comprising an outer wall extending downwardly from said outer edge of said top portion[, wherein said top portion has an inner edge from which said clearance increasing portion extends and an outer edge from which said outer wall extends].

12. (Amended) The fender of claim 11 wherein said first and second angles are [is] between about  $1^{\circ}$  and about  $89^{\circ}$ .

13. (Amended) The fender of claim 11 wherein said first and second angles are [is] between about  $40^{\circ}$  and about  $50^{\circ}$ .

15. (Amended) The fender of claim [14] 12 further comprising an outer wall[, wherein said outer wall extends from said top portion].

17. (Amended) *see page 4, clean copy of Amendment*